

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 164 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

THE BOMBAY CALCUTTA PAPER & GENERAL CO PVT LTD

Versus

CO-OPERATIVE BANK OF AHMEDABAD

Appearance:

MR MD PANDYA for Petitioner
MR MB GANDHI for Respondent No. 1
MR RD DAVE for Respondent No. 2

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 20/07/98

ORAL JUDGEMENT

1. This appeal has arisen from the impugned order dated 31/3/1994 rendered by the learned Chamber Judge, City Civil Court at Ahmedabad dismissing the notice of motion exh. 5 and injunction application exh. 6 in Civil Suit No. 5969 of 1993.

2. By order dated 20/5/1994 this appeal came to be admitted and the hearing thereof was expedited. In C.A. No. 2130 of 1994 rule was issued and made absolute in terms of para. 4-A, which reads as under :-

"During the pendency and final disposal of the appeal from order, the Hon'ble Court may be pleased to grant a temporary injunction restraining opponent no. 1 from making payment of Rs.3,50,000/- or any part thereof under Demand Draft No. 033063 dtd. 23/4/93 or otherwise to opponent no.2 or at his instance and also restraining opponent No.2 from recovering, negotiating, endorsing, discounting or receiving payment of Rs. 3,50,000/- or any part thereof under the aforesaid Demand Draft."

3. Mr. M.B. Gandhi, learned advocate appearing for the respondent No.1 Bank states that the amount of Rs.3,50,000/- is lying by way of fixed deposit with the respondent No. 1 Bank as per the order of the Court. He, further submits that he will make payment of the amount of this fixed deposit with interest to the party who succeeds in the suit. Under the aforesaid circumstances it is of no use keeping this appeal from order pending and the suit remaining unattended to on account of pendency of this appeal.

4. Having heard the learned advocates for the parties I feel and find that following directions will meet the ends of justice :-

(I). The learned Principal Judge, City Civil Court, Ahmedabad will see that the Civil Suit No. 5969 of 1993 is placed for final hearing before one of the Judges of the City Civil Court within two weeks from the date of receipt of writ of this direction. The learned Judge of the City Civil Court who is assigned the suit bearing Civil Suit No. 5969 of 1993 accordingly will proceed with the trial thereof dispensing with the summons for direction and other such interlocutory proceedings. The learned advocates appearing for the parties will cooperate with the trial of the suit. The trial of the suit shall be held expeditiously accordingly and the suit shall be disposed of as expeditiously as possible, preferably within a period of six months from the date on which the suit is assigned by the learned Principal Judge to the concerned Judge of the City Civil Court. It is made clear that the suit shall be decided by the learned Judge without being influenced in any manner by the impugned order or this order. Till the suit is finally

disposed of the amount in question shall be held by the respondent No.1 Bank in fixed deposit as aforesaid.

(II). The respondent No.2 shall be at liberty to move the trial Court for placing Summary Suit No. 5881 of 1993 for hearing alongwith Civil Suit No. 5969 of 1993 and the trial Court will deal with the said suit, if thought fit, alongwith Civil Suit No. 5969 of 1993.

This appeal shall stand accordingly disposed of with no order as to cost. D.S.P.

****PVR**** ao16494j.